

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

KIMBERLY ANN RATLIFF,

Petitioner,

v.

JODY R. UPTON, Warden,

FMC Carswell,

Respondent.

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2:17-CV-136-D

ORDER

After making an independent review of the pleadings, files, and records in this case, and the November 2, 2018 findings, conclusions, and recommendation of the magistrate judge, the court concludes the magistrate judge's findings and conclusions are correct. It is therefore ordered that the recommendation of the magistrate judge is adopted, and the petition for habeas corpus relief pursuant to 28 U.S.C. § 2241 is denied.

Considering the record in this case, the court denies a certificate of appealability insofar as a certificate of appealability is needed. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

If petitioner files a notice of appeal,

- () petitioner may proceed *in forma pauperis* on appeal.
- (X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

December 6, 2018.


SIDNEY A. FITZWATER
SENIOR JUDGE